THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 6820 of 2007

Dated: 05.04.2007

Between:

P. Narender Reddy.

..... PETITIONER

AND

APSRTC, Musheerabad, Hyderabad,
Rep. by its Managing Director and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 6820 of 2007

Order:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner was appointed as Conductor in the respondents-APSRTC on 17.07.1973. While working as such, he was issued a charge sheet dated 24.10.1973 alleging certain cash and ticket irregularities, for which he submitted his explanation denying the said charges. Thereafter, an enquiry was conducted, and based on the enquiry report submitted by the enquiry officer, the petitioner was removed from service, by order dated 05.05.1974, which was confirmed in appeal. Aggrieved by the same, the petitioner raised an industrial dispute in I.D. No. 224 of 1986, and the Labour Court, vide award dated 17.07.1990, set aside the removal order passed against the petitioner and directed the respondents-APSRTC to reinstate the petitioner into service with continuity of service, but without back wages and attendant benefits. Pursuant to the said award of the Labour Court, the petitioner was reinstated into service, and on attaining the age of superannuation he retired from service on 31.01.2004. It is the case of the petitioner that at the time of his retirement, the respondents did not pay him gratuity for the period from 24.10.1973 to 21.02.1991 i.e., from the date of passing of order of removal till the date of his reinstatement into service by virtue of the award. It is the case of the petitioner that he made representation, dated 01.01.2005 requesting the respondents to pay gratuity for the above said period in vain. Hence, he filed the present writ petition.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the respondents-APSRTC that the subject-matter of this writ petition is squarely covered by a judgment of a learned single Judge of this court in

M. Rama Rao v. Asst. Traffic Manager, APSRTC[1], wherein it was held that when once the Labour Court set asides the order of removal and directs reinstatement of the petitioner into service with continuity of service, the respondents-APSRTC cannot deny payment of gratuity to the petitioner for the period for which he was out of service as a result of the order of removal.

Inasmuch as, the Labour Court, vide its award dated 17.07.1990 passed in I.D. No. 224 of 1986, while setting aside the order of removal dated 05.05.1974 passed against the petitioner, directed the respondents to reinstate the petitioner into service with continuity of service and without backwages, the petitioner is entitled to be paid gratuity for the period he remained out of employment from 24.10.1973 to 21.02.1991, i.e. from the date of removal order till the date of his reinstatement into service, and the action of the respondents in denying gratuity to the petitioner for the aforesaid period, is illegal and arbitrary.

Since the facts of this case, are squarely covered by the judgment of a learned single Judge of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**, following the said judgment, and for the reasons mentioned above, this writ petition has to be disposed of, and it is accordingly disposed of in terms thereof. The respondents shall compute the gratuity payable to the petitioner taking into account the out of employment period i.e. from 24.10.1973, on which day order of removal was passed to 21.02.1991, on which day, he was reinstated into service by virtue of the award of the Labour Court, and after computing, pay the balance gratuity to the petitioner within a period of

two months from the date of receipt of a copy of this order. No costs.

_____

N.V. RAMANA, J.

Date: 05.04.2007
Nsr

---

[1] 1998 (3) ALD 76